

EXECUTIVE OVERVIEW OF VITA'S GUIDE TO TECHNOLOGY PROCUREMENT

I. Introduction

The Virginia Information Technologies Agency (VITA) intends to publish its "*Guide to Technology Procurement*" on or about July 1, 2003, as a guideline instead of a regulation. This will afford VITA maximum flexibility to promptly revise its *Guide* as VITA evolves best practices technology procurement in a world-class technology organization. The evolution of best practices—though never truly complete—may eventually result in VITA promulgating this *Guide* as a regulation.

II. Best Practices Model for Technology Procurement

"*VITA's Guide to Technology Procurement*" incorporates the following best practices:

- **Solution-oriented Request for Proposals in establishing statewide contracts and procuring technology solutions.**
- **Value-based or "best value" purchasing in procurement evaluations to secure the best technology solution available.**
- **Development of long-term strategic partnerships with its industry partners.**
- **Utilization of procurement solutions which share risks and benefits with its industry partners.**
- **Strict enforcement of Codes of Conduct for procurement professionals and industry partners to ensure fairness, objectivity and professionalism in the technology procurement process.**

III. What is brand new?

- **Standards of Conduct/Codes of Ethics**

All Commonwealth procurement officials and industry partners are already required to be cognizant of the laws which govern public procurements in the Commonwealth, such as the Virginia Public Procurement Act, the State and Local Government Conflicts of Interest Act, and the Government Frauds Act. All state personnel having official responsibility for procurement transactions are required to be familiar with Article 6 of the Virginia Public Procurement Act, "Ethics in Public Contracting" (sec. 2.2-4367 et seq.)

In addition, VITA is proposing separate Standards of Conduct/Codes of Ethics for its procurement professionals and industry partners. The nature of purchasing functions makes it absolutely critical that everyone in the purchasing process remain independent, objective, and free from any perception of impropriety. Any erosion of public trust or any shadow of impropriety is detrimental to the integrity of the entire purchasing system. Clear standards of conduct/codes of ethics prevent industry partners from influencing, or appearing to influence, procurement professionals in discharging their official duties. These standards and codes also

assist purchasing professionals in addressing situations in which their independent judgment could be reasonably compromised.

- **Innovative Partnerships**

The Public-Private Education Facilities and Infrastructure Act, public-private partnership contracts developed by the Chief Information Officer, and a renewed invitation to make unsolicited proposals are expected to provide opportunities for innovative partnerships between VITA and its industry partners.

- **Prequalification of Industry Partners**

Prequalification of technology industry partners has proven to dramatically shorten the procurement cycle and allowed government agencies like VITA to make better informed business and technology decisions. Prequalified industry partner lists will include those partners whose capabilities to provide goods or services has been evaluated and approved based on written prequalification specifications and procedures.

IV. What is old with a new twist?

- **Terms and Conditions (T's and C's)**

VITA intends to:

- limit the mandatory T's and C's in its solicitations to those required by the Virginia Public Procurement Act and those specifically required by the technology project or the business owner of the procurement. All other T's and C's will be listed as "desirable" and open to negotiation.
- work with its industry partners to develop and maintain standardized T's and C's which are consistent with "customary commercial practices." Contract negotiation time is expected to be reduced.
- develop and maintain reasonable limitation of liability clauses. In most instances, VITA will limit liability to two times the purchase price of the goods or services being procured or two times the annual or total value of the contract. This is a dramatic departure from the Commonwealth's requirement of unlimited liability.

- **Delegated Purchasing Authority**

At present, VITA intends to continue the delegations of purchasing authority which have been awarded to state agencies and institutions by the Department of General Services. On or about July 1, 2003, VITA will establish a data collection procedure by which agencies and institutions will report to VITA all technology procurements made pursuant to their delegated authority. All technology purchases by agencies and institutions are subject to audit by VITA at any time.

- **Sole Source Procurements**

Except for technology purchases over \$100,000, VITA will not be involved in the approval process for sole source procurements. On or about July 1, 2003, VITA will establish criteria for the approval of sole source technology procurements by the agency. VITA's "agency information technology resource" (AITR) in each agency will determine if the sole source procurement request meets VITA's criteria. (*See §2.2-2009(B), Acts of Assembly, Chapters 981 and 1021(2003)*). The agency head or his designee will be required to sign the appropriate approval form. Sole source procurements are subject to audit by VITA at any time.

- **eVA**

eVA, Virginia's online electronic procurement system, was launched on March 1, 2001, by the Department of General Services. Its functionality and capabilities continue to expand. As eVA evolves into the Commonwealth's "one face for electronic procurement," VITA will position itself to use eVA as the portal for technology procurements. VITA is currently working with the Department to develop full functionality for online IFBs and RFPs. VITA will also utilize online "best value" and "lowest price" reverse auctioning, a future planned enhancement to eVA.

V. What topics does VITA need to learn more about as it evolves best practices technology procurement?

As released on May 1, 2003, the first draft *Guide* is not complete. Indeed, an iterative drafting and public comment period is planned leading up to publication of a final *Guide* on or about July 1, 2003. Over the next two months, several innovative approaches and policies are being considered as VITA charts its evolution towards best practices-best thinking technology procurement. Careful review and public comment are particularly solicited on the following topics:

- **Partnership, procurement, and contracting opportunities for small, women-, and minority-owned (SWAM) businesses**
- **GSA Schedule**
- **Western States Contracting Alliance**
- **Compliance with Section 508 of the Rehabilitation Act of 1973**
- **Technology Refresh Procedure**
- **Computer Product Challenge Process**
- **Revised Protest Procedures/Use of ADR**
- **Limitation of Liability**